## REMARKS

In response to the Office Action dated February 1, 2007, claims 1, 9, 18, 24 and 38 have been amended. Claims 1-3, 5-31, 33 and 38-47 are in the case. Reexamination and reconsideration of the application, as amended, are requested.

The Office Action rejected claims 1-3, 5-8, 18-31, 33, 43 and 45-46 under 35 U.S.C. § 103(a) as being unpatentable over Bastiani et al. (U.S. Patent No. 6,442,628) in view of Konishi et al. (U.S. Patent Publication No. 2002/0003576). The Office Action also rejected claims 9-17, 38-42, 44 and 47 under 35 U.S.C. § 103(a) as being unpatentable over Konishi et al. (U.S. Patent Publication No. 2002/0003576) in view of Bastiani et al. (U.S. Patent No. 6,442,628).

The Applicants respectfully traverse these rejections based on the amendments to the claims and the arguments below.

The Applicants' have amended the independent claims to include transferring a test file <u>and partial test files at predetermined data transfer rates, the test files</u> containing a digital representation of video data between the data appliance and the external memory medium and <u>using an internal clock with monitoring logic associated with the data appliance to confirm data transfer rates associated with transfers of the test file and to log relative start and stop times associated with the test files, wherein if a data transfer error occurs, the predetermined data transfer rate is adjusted and the test file is re-transferred until a data transfer error does not occur.</u> Support for these amendments can be found throughout the specification and at least in FIGS. 1-3 and 6-7 and paragraphs [0029], [0037] and [0044] of the Application specification (U.S. Patent

Publication No. 2005/0216618).

First, although the Examiner argued that the combination of Bastiani et al. with Konishi et al. disclose a file index with a digital representation of video data, the Applicants submit that this file index disclosed, taught and suggested in the combined references is very different from the Applicants' claimed invention. Specifically, unlike the combined references, the Applicants' claimed invention has test files, including **partial test files, that are transferred at predetermined data transfer rates and an internal clock with monitoring logic associated with the data appliance is used to confirm data transfer rates associated with transfers of the test file and to log relative start and stop times associated with at least the partial test files**.

However, the thumbnails in the combined cited reference are instead for display purposes only. In fact, Konishi et al. explicitly states that "intra- or inter-frame encoding for a video signal input" is used (see Abstract, paragraph [00127] and FIG. 1 of Konishi et al.). Therefore, Bastiani et al. when combined with Konishi et al., do **not** disclose, teach or suggest the Applicants' claimed **internal clock with monitoring logic to confirm data transfer rates associated with transfers of the partial test files and logging relative start and stop times of the partial test files**. Hence, **unlike** the combined references, these claimed features allow, for example, automatic customization of a digital camera's use of its memory cards, which is important if a user has memory cards with different speeds.

Therefore, among other things, the combined references do **not** disclose, teach or suggest all of the Applicant's claimed features. Hence, since the combined references are missing features of the Applicant's claimed invention, the combined references cannot render the Applicant's invention obvious. This failure of the cited reference to disclose, suggest or provide motivation for the Applicant's claimed invention indicates a lack of a prima facie case of obviousness and, thus, the rejections should be withdrawn (MPEP 2143).

With regard to the rejection of the dependent claims, because they depend from the above-argued respective independent claims, and they contain additional limitations that are patentably distinguishable over the cited references, these claims are also considered to be patentable (MPEP § 2143.03).

Thus, it is respectfully requested that all of the claims be allowed based on the amendments and arguments. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. Additionally, in an effort to further the prosecution of the subject application, the Applicant kindly **requests** the Examiner to telephone the Applicant's attorney at **(818) 885-1575**. Please note that all mail correspondence should continue to be directed to:

Hewlett Packard Company
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO  80527-2400

Respectfully submitted,
Dated:  May 1, 2007

Edmond A. DeFrank
Reg. No. 37,814
Attorney for Applicant
(818) 885-1575 TEL
(818) 885-5750 FAX